

IC 27-7-3

Chapter 3. Abstract and Title Insurance

IC 27-7-3-1

Citation

Sec. 1. This chapter shall be known and may be cited as The Indiana Abstract and Title Insurance Law.

(Formerly: Acts 1937, c.104, s.1.) As amended by P.L.252-1985, SEC.247.

IC 27-7-3-2

Definitions

Sec. 2. As used in this chapter and unless a different meaning appears from the context:

(a) The term "title insurance" means a contract of insurance against loss or damage on account of encumbrances upon or defects in the title to real estate.

(b) The term "company" shall mean and include any corporation, domestic or foreign, to which this chapter is applicable.

(c) The term "department" shall mean the department of insurance of the state of Indiana.

(d) The term "commissioner" shall mean the insurance commissioner.

(e) The term "public record" has the meaning set forth in IC 5-14-3-2.

(f) The term "title search" means a search and examination of the public records sufficient to determine:

- (1) ownership of;
- (2) encumbrances on;
- (3) liens on; and
- (4) defects in the title to;

the real estate that is the subject of the search.

(Formerly: Acts 1937, c.104, s.2.) As amended by P.L.252-1985, SEC.248; P.L.68-2002, SEC.1.

IC 27-7-3-3

Title insurance business; authorization of domestic and foreign corporations; application of business corporation law

Sec. 3. Any domestic corporation having among its purposes the insuring against loss or damage on account of encumbrances upon or defects in the title to real estate, is hereby authorized to organize under IC 23-1, and any foreign corporation, having among its purposes the insuring against loss or damage on account of encumbrances upon or defects in the title to real estate, is hereby authorized to and may be admitted to do business in this state under IC 23-1. Any domestic or foreign corporation, organized or admitted to do business before or after June 7, 1937, as provided in this section, may engage in business as a title insurance company by complying with the provisions of this chapter.

(Formerly: Acts 1937, c.104, s.3.) As amended by P.L.252-1985,

SEC.249.

IC 27-7-3-4

Corporate rights; powers and privileges

Sec. 4. Every such company shall possess and may exercise all the rights, powers, and privileges conferred upon domestic corporations by IC 23-1 but only to the extent that the same may be necessary, convenient or expedient to accomplish the purposes for which it is organized, and in addition thereto, but subject to the restrictions and limitations contained in this chapter, every such company shall possess and may exercise the power of making insurance to insure against the loss or damage on account of encumbrances upon or defects in the title to real estate. In all things not specifically provided for in this chapter, the provisions of IC 23-1 shall apply. *(Formerly: Acts 1937, c.104, s.4.) As amended by P.L.252-1985, SEC.250.*

IC 27-7-3-5

Capital stock

Sec. 5. The capital stock of any company engaged in business under the provisions of this chapter shall be not less than one hundred thousand dollars (\$100,000), which shall be fully paid in. *(Formerly: Acts 1937, c.104, s.5.) As amended by P.L.252-1985, SEC.251.*

IC 27-7-3-6

Certificate of authority; requirements; issuance; necessity to do business

Sec. 6. (a) Whenever any such company shall have shown to the department by a sworn statement, verified by the oaths of the president or a vice president and the secretary or an assistant secretary of the company and bearing the corporate seal of such company, that it has complied with all the requirements of this chapter necessary for beginning business and that it has deposited the amount as required in section 7 of this chapter, the commissioner shall issue a certificate of authority reciting that such company has complied with the provisions of this chapter and is authorized to insure against the loss or damage on account of encumbrances upon or defects in the title to real estate, which certificate shall expire as of midnight of April 30 of each calendar year. The certificate shall be issued under the seal of the department.

(b) No person, firm, partnership, corporation, association, or company shall transact any business of insuring against loss or damage on account of encumbrances upon or defects in the title to real estate until it or they shall have received a certificate of authority as provided for in this section.

(Formerly: Acts 1937, c.104, s.6.) As amended by P.L.252-1985, SEC.252.

IC 27-7-3-7

Deposits; title insurance fund

Sec. 7. Every company described in section 3 of this chapter, before engaging in business, shall deposit with the department the sum of fifty thousand dollars (\$50,000) either out of its capital or surplus. The deposit shall be known as the title insurance fund and must be deposited in securities of the kind and character designated by IC 27-1-13-3(b).

(Formerly: Acts 1937, c.104, s.7.) As amended by P.L.252-1985, SEC.253; P.L.159-1986, SEC.5; P.L.161-1986, SEC.2; P.L.184-1996, SEC.3.

IC 27-7-3-8**Additional deposit to meet requirements of another state; withdrawal**

Sec. 8. In the event any such domestic company shall be required by the laws of any other state, country, or province, as a requirement prior to doing such business as defined in this chapter therein, to deposit, with the duly appointed officer of such other state, country, or province or with the department of this state, any securities or cash in excess of the deposit required of the company by this chapter, such company may deposit with the department securities of the character authorized by this chapter sufficient to meet such requirement. The department is hereby authorized and directed to receive such deposit and to hold it exclusively for the protection of all policyholders of the company. Any deposit so made to meet the requirement of any such other state, country, or province shall not be withdrawn by the company except upon filing with the department evidence satisfactory to it that the company has withdrawn from business, and has no unsecured liability outstanding in any such other state, country, or province by which such additional deposit was required, and upon the filing of such evidence, and the approval of the department, the company may withdraw such additional deposit. Upon the approval of the department, any such domestic company may deposit and use the reserve fund, provided for in section 9 of this chapter, for the purpose of complying with the additional deposit requirement of any other state, country, or province.

(Formerly: Acts 1937, c.104, s.8.) As amended by P.L.252-1985, SEC.254.

IC 27-7-3-9**Title insurance reserve fund**

Sec. 9. Every company described in section 3 of this chapter shall annually set apart, accumulate, and maintain, in a fund to be known as the title insurance reserve fund, securities of the kind and character designated by IC 27-1-13-3(b) of the face amount equal to ten percent (10%) of the actual premiums collected during the preceding year by the company on account of such title insurance, until the fund totals fifty thousand dollars (\$50,000). The fund shall be maintained in the treasury of the company as additional security

to the holders of policies issued by the company. However, at its option, the company may deposit the title insurance reserve fund with the department in the amount of ten thousand dollars (\$10,000), or any multiple thereof up to fifty thousand dollars (\$50,000). This deposit shall be known as the title insurance reserve fund deposit.
(Formerly: Acts 1937, c.104, s.9.) As amended by P.L.252-1985, SEC.255; P.L.159-1986, SEC.6; P.L.161-1986, SEC.3; P.L.184-1996, SEC.4.

IC 27-7-3-10

Deficiency in title insurance reserve fund

Sec. 10. Whenever the amount of the title insurance reserve fund of any such company shall fall below the amount required in section 9 of this chapter, no further title insurance shall be made or issued by such company until the deficiency has been supplied.
(Formerly: Acts 1937, c.104, s.10.) As amended by P.L.252-1985, SEC.256.

IC 27-7-3-11

Interest on deposited securities

Sec. 11. The department shall permit such companies having on deposit with it stocks or bonds as security to collect the interest accruing on such deposits, delivering to their authorized agents, respectively, the coupons or other evidences of interest as the same become due.
(Formerly: Acts 1937, c.104, s.11.)

IC 27-7-3-12

Foreign corporations; capital and deposit requirements; certificate of authority; rights and privileges

Sec. 12. Every foreign corporation duly authorized to do a title insurance business in the state in which it is incorporated or organized and admitted to do business in this state under IC 23-1 may be authorized by the department to transact a title insurance business in this state upon filing with the department proof which satisfies it that the corporation has complied with sections 5 and 9 of this chapter and has deposited with the proper official of the state in which it is incorporated or organized, or has deposited with the department, the amount as required by section 7 of this chapter, and that it has complied with the provisions of this chapter. Upon the receipt of such proof, the commissioner may issue to such foreign corporation a certificate of authority as provided for in section 6 of this chapter. A foreign corporation admitted to do business under this chapter shall have the same but no greater rights and privileges than a domestic corporation under this chapter.
(Formerly: Acts 1937, c.104, s.12.) As amended by P.L.252-1985, SEC.257.

IC 27-7-3-13

Examination of company; appointment of examiners; report of

examination

Sec. 13. (a) The department may examine into the affairs of any such company doing business in this state under the provisions of this chapter. For such purpose it may appoint as examiners competent persons, and upon such examination the commissioner, his deputy, or any examiner authorized by him may examine under oath the officers and agents of such company and all persons deemed to have material information regarding the company's property or business. Every such company, its officers, and agents shall produce at the office of the company where the same are kept, its books and all papers in its or their possession relating to its business or affairs, and any other person may be required to produce any book or paper in his custody relevant to the examination for the inspection of the commissioner, his deputy, or examiners whenever required, and the officers and agents of such company shall facilitate such examination and aid the examiners in making the same so far as it is within their power to do so.

(b) Upon the conclusion of such examination a full, true, and detailed report of such company shall be made to the department, by the person or persons making the examination, in such form as the department may prescribe.

(Formerly: Acts 1937, c.104, s.13.) As amended by P.L.252-1985, SEC.258.

IC 27-7-3-14**Annual financial statement; effect of certification by certified public accountant**

Sec. 14. (a) Every such company doing business in this state shall file with the department on or before March 15 in each year a financial statement for the year ending December 31 immediately preceding on forms furnished by the department. Such statement shall include a showing that the sum of ten percent (10%) of all actual premiums received by such company, on account of such title insurance business, during the year ending on December 31 prior thereto, as required by section 9 of this chapter, has been duly set apart and is held by such company in said title insurance reserve fund or is held on deposit by the department as provided in section 9 of this chapter. Such statement shall be verified by the oaths of the president or a vice president and the secretary or an assistant secretary.

(b) If the annual statement, as required by this section, shall be certified to by a certified public accountant, then such statement shall be prima facie evidence of the facts stated therein, and the department may in its discretion accept such certified statements in lieu of an examination under this chapter.

(Formerly: Acts 1937, c.104, s.14.) As amended by P.L.252-1985, SEC.259.

IC 27-7-3-15**Collection of charges, fees, and taxes; disposition**

Sec. 15. The department shall collect the charges, fees and taxes provided for in this section, and give proper acquittances therefor, and on or before the end of every calendar month shall pay into the state treasury the amounts collected by it during such month, as hereinafter provided:

Fees. Domestic Companies: Every such domestic company shall pay to the department the following stipulated fees: For filing annual statement, twenty dollars (\$20.00); for license to such company, and for each renewal thereof, five dollars (\$5.00); for affixing seal or certifying to any paper, one dollar (\$1.00). The department may require payment of fees on or before the first day of the month next after the same are chargeable.

Fees. Foreign Companies: Every such foreign company shall pay to the department the following stipulated fees: For filing annual statement, twenty dollars (\$20.00); for license to such company, and for each annual renewal thereof, five dollars (\$5.00); for filing withdrawal and cancellation of certificate, twenty dollars (\$20.00); for affixing seal or certifying to any paper, one dollar (\$1.00).

(Formerly: Acts 1937, c.104, s.15.)

IC 27-7-3-16

Retirement or withdrawal from business; reinsurance; cancellation of certificate of authority; return of deposit

Sec. 16. (a) Whenever any domestic company desires to retire from the business provided for in this chapter, it shall furnish to the department satisfactory evidence that it no longer has outstanding any liability upon any policy of insurance made by it in the conduct of its business as a title insurance company, or that it has reinsured its outstanding policies with a solvent company, authorized to do business under this chapter in this state, or with a company approved by the department. At the same time the company shall surrender to the department its certificate of authority. If the department is satisfied that there is no outstanding liability upon any policy issued by such company, or, that its outstanding policies have been properly reinsured, then the department shall cancel the surrendered certificate of authority and shall return to the company any and all deposits made by such company under the provisions of this chapter.

(b) Whenever any foreign company desires to withdraw from doing a title insurance business in this state, it shall furnish to the department satisfactory evidence that it no longer has outstanding any liability upon any policy of title insurance made by it in the conduct of its business in this state, or that it has reinsured its outstanding policies with a solvent company, authorized to do business in this state, or with a company approved by the department. At the same time such company shall surrender to the department its certificate of authority. If the department is satisfied that there is no outstanding liability upon any policy issued by such company in the conduct of its business in this state, or that its outstanding policies have been properly reinsured, then the department shall cancel the surrendered certificate of authority and shall return to the company

any and all deposits made with it by such company under the provisions of this chapter.

(Formerly: Acts 1937, c.104, s.16.) As amended by P.L.252-1985, SEC.260.

IC 27-7-3-17

Violations

Sec. 17. A person who recklessly violates this chapter or fails to fulfill any of the requirements of this chapter commits a Class B misdemeanor.

(Formerly: Acts 1937, c.104, s.17.) As amended by Acts 1978, P.L.2, SEC.2724.

IC 27-7-3-18

Exemptions from chapter

Sec. 18. The provisions of this chapter shall not apply to any insurance company organized or desiring to organize under and pursuant to IC 27-1 nor to any person, firm, partnership, corporation, limited liability company, association, or company whose business is the making of abstracts of title to real estate and attaching their certificate thereto and not engaging in the business of making title insurance, nor to any person, firm, partnership, corporation, limited liability company, or association acting as an authorized agent for a duly qualified title insurance company.

(Formerly: Acts 1937, c.104, s.18.) As amended by P.L.252-1985, SEC.261; P.L.8-1993, SEC.425.

IC 27-7-3-19

Construction of chapter

Sec. 19. This chapter shall be deemed to create an additional and separate method for engaging in the business of title insurance, as defined in this chapter, and providing for the incorporation of such companies and their licensing to do such business. This chapter shall not be deemed to alter, amend, or repeal any other statutes of the state of Indiana. No requirements or proceedings shall be necessary for the incorporation and licensing of a title insurance company under this chapter except such as are prescribed in this chapter, any provision of the laws of the state of Indiana or IC 27-1 to the contrary notwithstanding.

(Formerly: Acts 1937, c.104, s.20.) As amended by P.L.252-1985, SEC.262.

IC 27-7-3-20

Limitation on risks

Sec. 20. (a) As used in this section, "any one (1) risk" means a risk or hazard that arises in connection with any one (1) piece or parcel of property, whether or not the policy insures other property.

(b) Any company organized to issue title insurance in Indiana may not expose itself to any one (1) risk in an amount exceeding fifty percent (50%) of the aggregate amount of its total capital and surplus

and its reserves other than its loss of claim reserves.

(c) Any risk or portion of any risk that has been reinsured as authorized under IC 27-7, must be deducted in determining the limitation of risk prescribed in this section.

As added by Acts 1982, P.L.162, SEC.2.

IC 27-7-3-21

Requirement of title search

Sec. 21. A company described in section 3 of this chapter that issues a title insurance policy shall perform or cause to be performed a title search for the real estate in conjunction with a mortgage secured by the real estate unless the mortgage meets all of the following requirements:

- (1) The principal amount of the mortgage is not more than fifty thousand dollars (\$50,000).
- (2) The mortgage is subordinate to a prior mortgage where a title search was conducted and a title policy was issued.
- (3) The mortgage is not a reverse mortgage.

As added by P.L.68-2002, SEC.2.